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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO.       |
|--|-------------|----------------------|-------------------------|------------------------|
| 10/593,840   | 09/22/2006  | Henryk Frenzel       | 2004P09871              | 4047                   |
| 24131 7590 05/01/2012<br>LERNER GREENBERG STEMER LLP<br>P O BOX 2480<br>HOLLYWOOD, FL 33022-2480 |             |                      | EXAMINER<br>MUNG, ON S  |                        |
|  |             |                      | ART UNIT<br>2483        | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>05/01/2012 | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## DETAILED ACTION

### ***Response to Remarks***

1. Applicant's arguments filed on April 13, 2012, with respect to the claim 14-31 have been fully considered, but they are not persuasive.
2. Applicant's representative refers to "telephone interviews" in the argument. Applicant's representative called the Examiner after **Final Rejection** for **clarification** on the Examiner's rejection and position. This call was not officially setup as an interview, and can be only considered as "an informal discussion for clarification". Therefore, the conversation between Applicant's representative and Examiner was not recorded in the file. Applicant is reminded that in order to setup official interview with the Examiner, Applicant should submit "a request for an interview" and provide a written proposal or agenda for interview. In addition, *"finally rejected application:... interviews merely to restate arguments of record or to discuss new limitations which would require more than nominal reconsideration or new search should be denied"*. See MPEP 714.13.
3. The Examiner withdraws the first motivation stated in paragraph 3, page 6 of the last office action, however, Examiner believes that the second motivation is proper to combine two references and the rejection will be maintained.
4. Applicant urges that Hirokoso does not support the Examiner's second motivation "one of ordinary skill in the art would have motivation to do so to improve image quality in image sensor" as stated on page 6 of the last office action. Examiner respectively disagrees. Hirokoso supports those motivations in paragraphs 0006, 0028, and 0029, for examples. Hirokoso's invention is related to improve image quality such

as color and monochrome coding and resolutions *in partial areas* (see paragraphs 0012, 0015, 0016-0019, 0022, 0024, 0026, Drawings 3, 5, 6-12, 13: as cited on page 6 of the last office action) in image sensor which can be modified into Nakamura's invention. Therefore, Examiner's motivation to combine two references is proper and the rejection is maintained.

4. Applicant continues to urge that Nakamura and Hirakoso's teachings are not combinable. In response to this argument, the examiner recognizes that obviousness may be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *in re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988), *In re Jones*, F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992), and *KSR international Co. v. Teleflex, Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In this case, examiner has cited some portions of Hirakoso (e.g. color coding and monochrome coding in different parts of image sensor) to establish obviousness in order to improve the image quality in image sensor. In addition, both inventions are related to an image processing and recognition through image pickup operation. Therefore, the teachings of Hirakoso can be combined and included in Nakamura's imaging system.

5. Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In addition, Applicant is

also reminded that the claims must be interpreted as broadly as their terms reasonably allow in view of the specification. *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989).

### ***Conclusion***

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ON MUNG whose telephone number is (571)270-7557. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Ustaris can be reached on 571-272-7383. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Joseph Ustaris/

Supervisory Patent Examiner, Art Unit 2483